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ABSTRACT

The No Child Left Behind Act of 2001 (NCLB) demands from the American public school system that all students, regardless of race or socioeconomic status, must be held to the same academic expectations, and that their academic progress must be measured using a newly refined concept of adequate yearly progress (AYP). Success in complying with the law will no longer be based on whether a state has created academic standards and testing, but rather on how well its students are doing in making real progress toward meeting these standards. The new system has a built-in "specific ambiguity," whereby states have significantly flexibility in developing state accountability systems and general program administration. States can thus experiment with their specific implementation of AYP within constraints set by the law. Academic achievement standards must describe basic, proficient, and advanced levels of achievement, and utilize them for all groups of students to prevent failing groups from being hidden. Schools that do not make adequate yearly progress for 2 consecutive years will be identified as needing improvement, with corrective action being taken after 4 years of failure. Schools that make or exceed AYP may receive special awards, and their teachers may receive financial awards. (Contains 12 references.) (RT)

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Education Leaders Council

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Adequate Yearly Progress: Results, not Process

By Lisa Graham Keegan, Billie J. Orr & Brian J. Jones
Education Leaders Council

When President Bush signed the *No Child Left Behind Act of 2001* (NCLB) into law on January 8, 2002, he brought to the public school system a new demand. All students—regardless of race or socioeconomic status—must be held to the same academic expectations, and all students—regardless of race or socioeconomic status—must have their academic progress measured using a newly-refined concept of adequate yearly progress (AYP).[1]

The term AYP should be nothing new to educators. Title I of the previous version of the Elementary and Secondary Education Act, the *Improving America's Schools Act* (IASA) of 1994, introduced the concept of adequate progress in its requirements that all states establish academic content standards, develop tests to assess student progress in those standards, and create performance standards for those tests. But the focus of the 1994 law centered much more on the process of building the AYP mechanism that would be used to measure achievement in Title I schools and for Title I students than it did on ensuring actual academic progress for all students. Consequently, most states have dual accountability systems in place—one for Title I schools and another for all public schools. In 2000, only 22 states had a single, unified system to judge the performance of all public schools.[2]

With NCLB, all this changed. The play is no longer the thing; success in complying with the law will no longer be based upon whether a state has created academic standards and testing, but rather on how well all of its students are doing in making real progress toward meeting those standards. That means testing all students, and it means using the same system for all students; thus NCLB requires states to use a single accountability system for all public elementary and secondary schools to determine whether all students are making progress toward meeting state academic content standards.

This expectation defined by NCLB—that all children will make continuous progress toward proficiency on state standards—is the underlying motive behind the new AYP. The goal is to ensure that all students, regardless of what they look like or how much money their parents earn, make adequate yearly progress, period. "All students can learn" is no longer just a mantra, it's a goal that will be measured every year.

The AYP process sounds relatively straightforward: States set the bar for what is deemed "proficient" in relation to their academic standards. They must then define what level of improvement will be sufficient each year to determine not only whether districts and schools have made "adequate yearly progress" toward meeting the standard of proficiency, but also the rate at which they will get all students to proficiency in twelve

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[1] *No Child Left Behind Act*, P.L. 107-110, 107th Congress, 1st Session, 2001.
[2] Margaret E. Goertz and others, *"Assessment and Accountability Systems in the 50 States: 1999-2000"* (University of Pennsylvania: Consortium for Policy Research in Education, 2001), 30.

years. Finally, after testing students each year, states will disaggregate the testing results to determine how specific populations of students are achieving at the state, district, and school levels, and make those results available to the public. This is simple in description, but complicated in execution—and, ultimately, central to the law. AYP is used throughout NCLB to determine compliance, rewards, and sanctions. Process is not enough; it's results that count.

Precisely how we define results—even when it comes to such seemingly simple tasks as defining terms like *proficient* or *adequate*—will be decided in collaboration with the U.S. Department of Education and the states. While this law gives strong guidance, we would all do well to approach this collaborative process with humility. State accountability systems that seek to ensure the academic success of all students are still relatively new and unstudied phenomena. Our experience to date has given us much confidence that the broad infrastructure of NCLB is sound, but there is still much to learn and many ways to approach the requirements of this new law.

Defining a System: "Specific Ambiguity"

Under NCLB, Congress provided the states with significant flexibility in developing state accountability systems, and with greater flexibility in general program administration than has previously been permitted in federal education law. For example, State and local education agencies will be allowed for the first time to shift up to 50 percent of their non-Title I administrative funds between programs, or they may even shift these funds into Title I itself (though they cannot move funds out of Title I to other accounts). States can also apply to receive "flexibility authority," which will be awarded to seven states on a competitive basis to demonstrate even greater gains with greater freedom.

Consistent with this new flexibility, while the objectives of the AYP requirements in NCLB are obvious as general guidance, they leave a great deal of room for interpretation in their specific implementation. For this reason, the U.S. Department of Education will be issuing further instruction on many of the details of the law. We would advise those involved in the rulemaking and guidance process to proceed cautiously, for the very vagueness of the law—this "specific ambiguity"—is actually an asset, as it leaves each state room to experiment within its own strengths and limitations. Rulemakers should not eliminate the desired and intentional ambiguity of the law; rather, they should jointly be seeking ways to learn from it. As Thomas J. Kane noted in an analysis of the House and Senate AYP proposals,

> ...states are currently experimenting with a wide range of different types of accountability systems. They should be allowed to continue experimenting, until the Nation reaches a consensus regarding the ideal way to determine which schools are making adequate yearly progress and which are

> not.... [I]mpatience is an insufficient excuse for bad education policy.[3]

While NCLB defers in certain respects to state policies and practices, it does lay down some non-negotiable directives that states must adhere to in their efforts to develop an AYP process. One might compare this to a road map on which main thoroughfares and destination are clearly marked, but unmarked side streets and alleys are also open to travel along the way.

Under the law, each state is required to work with its teachers, parents, principals and local educational agencies to create a state plan that incorporates challenging academic content standards and student achievement standards that apply to all children within the state. The academic achievement standards (formerly called performance standards) must describe *basic*, *proficient* and *advanced* levels of achievement. As stated previously, this is crucial to understanding the concept of AYP, because the goal is for all children to reach the *proficient* level (or beyond). The state must also implement a single accountability system that ensures that its schools, districts and the state as a whole make adequate yearly progress.

Further, while each state is responsible for the specifics in defining how it will determine "progress," the federal law is clear that the state's definitions of AYP must have the same high standards of achievement for all public schools in the state, and they must follow a 12-year timeline for getting all students to proficiency. The state's criteria must be statistically valid and reliable, require continuous and substantial improvement for all students, and measure progress based on state reading and mathematics tests. Secondary schools must include graduation rates as a factor in determining progress, and elementary schools must use one additional indicator such as attendance, promotion rates or increases in participation in advanced classes.

Data from the 2001-2002 school year will establish the starting point for measuring the percentage of students meeting or exceeding the state's level of proficiency. States must set the initial bar at a level based on either its lowest achieving demographic group, or the scores of its lowest achieving schools, whichever is higher. However, regardless of where the initial bar is placed, states *must* define AYP so that *all* students in *all* groups are expected to improve and achieve the proficiency level in 12 years.[4] The law is specific in this goal, but ambiguous in the starting point, deferring to the states for the criteria they will use for the initial placement of the bar.

Once the starting level has been determined, states must then begin raising the bar over time, increasing the number of students meeting or exceeding the state's level of proficiency over time, with the goal being 100% of students at proficiency in 12 years. The statute requires that the bar be raised in equal increments over time, and must be raised for the first time not later that two years into the process, and then again at least

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[3] Thomas J. Kane and others, *"Assessing the Definition of 'Adequate Yearly Progress' in the House and Senate Education Bills."* (Los Angeles: School of Public Policy and Social Research, UCLA, 2001), 12.
[4] *No Child Left Behind Act*, P.L. 107-110, Section 1111 (b)(2), 107th Congress, 1st Session, 2001.

once every three years. Where states have leeway is in determining the initial "height" of the bar, and the rate at which it will be raised over time until 100% of students reach proficiency.

Finally, to ensure that the most disadvantaged students do not get left behind in this process—so that states and schools don't get the more affluent children to proficiency first, then go back and start working on at-risk children in the waning years of the 12 year deadline—states must include separate measurable objectives for "continuous and substantial improvement" in both reading and math for students who are minorities, poor, disabled, or of limited-English proficiency (LEP). This is how states can monitor how well they are doing in closing the achievement gap.

The bottom line is that, in order to demonstrate adequate yearly progress, the state and its districts must show that schools are meeting or exceeding the state annual measurable objectives for all students and for students within each subgroup.

It is important to note that there is also a "safe-harbor" provision found within NCLB, created to address the concern that too many schools would be identified as failing simply because one subgroup—for example, LEP students—failed to meet the state AYP goals. This provision allows schools to avoid being considered as failing so long as (in this particular example) the number of LEP students who are below proficiency decreases by 10 percent when compared with the proceeding year, and if LEP students also made progress on one or more of the additional academic indicators listed above. The law also requires at least 95% of students enrolled in the school and in each subgroup take the state tests in order to meet the standards of AYP.[5]

As an external audit for states to gauge the quality of their own standards—to give them some idea of how high their bar for proficiency is set and how well they have defined progress toward that bar—states will be required every other year to administer the National Assessment of Educational Progress (NAEP) tests in reading and math. This is not only a significant change from prior law (where NAEP was optional and administered only once every four years) but a critical one. NAEP results will act as both light and leverage for states serious about taking a closer look at their standards and making any necessary modifications to ensure that they remain rigorous.

What will an ideal system look like? Frankly, we're not sure yet. Clearly, states will develop a single accountability system for all students, create definitions of progress that fall within federal parameters, and lay out a timeline for getting all students to proficiency in 12 years—and there end the details. Through NCLB, the federal government has said, "Here are the guidelines, the flexibility, the resources, and the expectations. We'll meet you back here in 12 years, and we'll provide you with an external audit through NAEP every other year, but we want 100% of your students at proficiency or higher." In the meantime, states should take advantage of the specific ambiguity in the law and build the system that works best for them.

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[5] *No Child Left Behind Act*, P.L. 107-110, Section 1111 (I), 107th Congress, 1st Session, 2001.

Building a System: Norm- vs. Criterion-Referencing

It is likely that the goals of AYP will be realized in ways that have not been pursued on a national basis, but which will be diligently pursued in individual states. Therefore, we would advise caution when overseeing developing systems, and not hasten to declare them insufficient in process so long as the outcome data they seek and produce match the goals and objectives of the law. Remember, this is about results, not process.

Accountability systems are still a new science. Few have been well researched. Many exist on paper, though few have been employed over any significant period of time. For this reason, educators, testing directors, and federal officials engaged in "approving" a given approach would be well advised to gather all of the pertinent data currently available. We may be in for a few surprises.

As an example, we hear a compelling and well-reasoned argument that the best method for testing students is to use a criterion-referenced test that has been tailor-made to directly correlate to a state's specific standards. If that argument is universalized as a compliance requirement of NCLB, every state that has not yet done so must commission the development of a specialized criterion-referenced test for use every year, rather than use any number of pre-existing commercial tests.

The argument for this approach says that only tests designed specifically around a state's standards can adequately reflect student progress toward those standards. Or so current accountability theory seems to suggest.

Theory is one thing, but we may miss potentially powerful state approaches if this theory dictates all future practice. In fact, requiring each state to develop an annual criterion-referenced test will immediately undermine extensive efforts already underway in states such as California, Arizona, and Tennessee, among others. These states currently use norm-referenced tests or test items to gauge academic progress down to the level of an individual student, and what they have found bears further study.

Some of their preliminary data suggest that this method of analyzing student achievement results in data comparable in quality and result to that derived from analysis of criterion-referenced tests. Until there is sufficient research in this area by those who know testing systems best, we should avoid dismissing the use of norm-referenced tests at the outset of this endeavor.

A quick look at Arizona's testing data should show why. Arizona administers both a criterion-referenced test (the AIMS test, shown in the left column on the next page) and a norm-referenced test (SAT-9, in the right column). If we lay the results of these two tests next to each other—understanding that there are technical differences in the administration of the tests that make a perfect correlation impossible—the results are still remarkably similar.[6]

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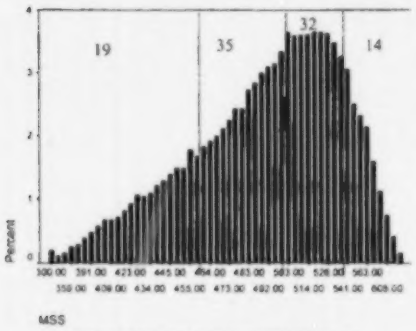
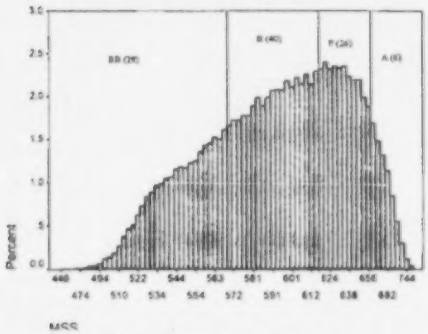
[6] In this particular case, percentile scores have been converted to normal curve equivalents for a more valid comparison of criterion- and norm-referenced test scores. (See above explanation in text.)

Figure 1. Results from Arizona's criterion-referenced test (on the left) and norm-referenced test (on the right) are remarkably similar.

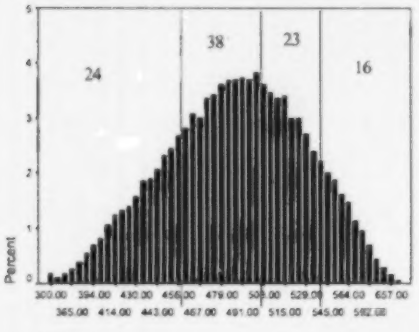
AIMS GRADE 3 MATHEMATICS



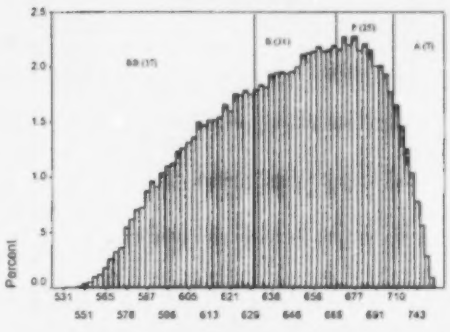
Grade 3 Mathematics Scale Scores
Stanford 9



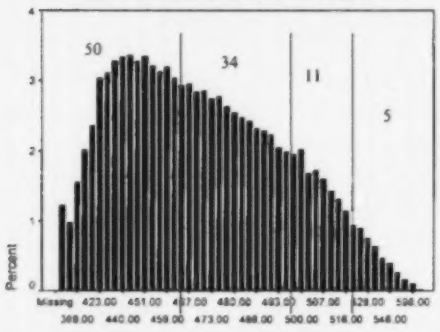
AIMS GRADE 5 MATHEMATICS



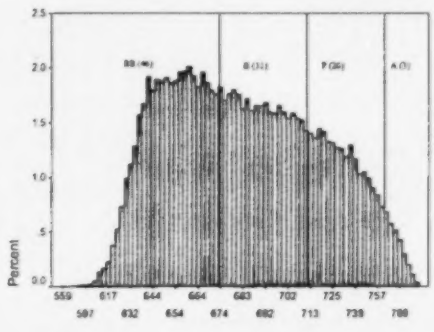
Grade 5 Mathematics Scale Scores
Stanford 9



AIMS GRADE 8 MATHEMATICS

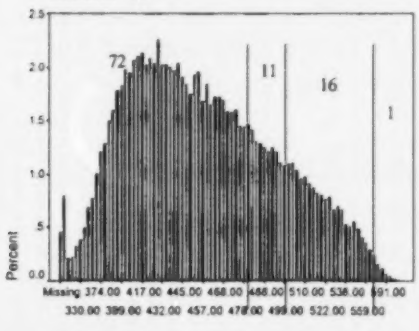


Grade 8 Mathematics Scale Scores
STANFORD 9

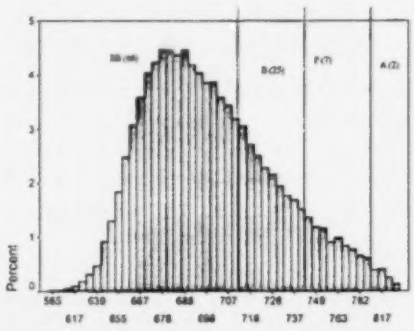


AIMS GRADE 10 MATHEMATICS

GRADE: 10



Grade 10 Mathematics Scale Scores
Stanford 9



It can, of course, be argued that a criterion-referenced test is more precisely matched to the state's specific standards. We don't disagree. Yet, norm-referenced tests are also based on a publicized set of standards, and these are generally consistent with those used for criterion-referenced tests. Bear in mind the goal of showing *progress*—a gain in knowledge of material deemed most essential for student success. Both a criterion-referenced and a norm-referenced test are made up of questions designed to make an effective judgment of student knowledge and skills in defined areas. Where they differ most significantly is presumably in their range of difficulty.

While a norm-referenced test seeks questions chosen to elicit a bell-shaped performance curve, the criterion-referenced test is made up of questions meant to match the standard. For norm-referenced tests, results are displayed primarily in a percentile ranking scale for comparison to other students, based on a nationwide "norming" population. However, most national norm-referenced tests also offer conversion of their percentile scores into a curve representing points given for every correct answer. As the Arizona data show, curves and performance levels for the converted norm-referenced tests nearly mirror criterion-referenced test results.

An additional point bears mentioning. Based on his work in Tennessee over the past 15 years, Dr. William Sanders offers the opinion that we do *not* need to have an excruciatingly tight match of state standards to specific test items. In fact, he places far more importance on "freshening" a test annually with new items than he does on specific linking to a particular standard.[7] It could well be that we have placed too much emphasis on states writing their own unique tests. This is yet another assertion that deserves additional study.

We are not arguing that criterion-referenced tests and norm-referenced tests are interchangeable. They are designed for different purposes and with distinct strengths and weaknesses, but the assumption that a state-developed criterion-referenced test better identifies student growth than a norm-referenced "test off the shelf" may not withstand in-depth analysis. The data produced by both norm- and criterion-referenced tests are so strikingly similar that an automatic preference for use of a criterion-referenced test to gauge student progress as part of NCLB seems unwarranted for the moment.

A final word in this regard: Those of us who support NCLB clearly believe that the core set of knowledge we seek for our students is sufficiently similar as to be assessable with a more generalized examination—otherwise, why the prominent role of the National Assessment of Educational Progress (NAEP) as an external audit for states in the new law? One cannot argue that gain can only be viewed within the confines of unique state assessments while simultaneously extolling the ability of NAEP to judge achievement across the board.

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[7] Education Commission of the States. *A Closer Look: State Policy Trends in Three Key Areas of the Bush Education Plan—Testing, Accountability and School Choice.* (Denver: Education Commission of the States, 2001), 8.

The conclusion? We need more comparison and research regarding what these tests tell us. There are presently a number of states that not only use both norm- and criterion-referenced tests, but they also use them in different subjects, different grades, and, in some cases, in different locations around their state. Equating the results of this blend of norm- and criterion-referenced testing may be valid—and then again it may not. Until we have more data from the administration of these tests, and the opportunity to look at this data in a meaningful way, we ought not be in a hurry to junk the use of norm-referenced tests. Educators should currently worry less about whether a test is norm- or criterion-referenced, and concentrate instead on its relationship to state goals, and to collecting and analyzing the results of those tests in meaningful ways. We're looking at progress, not process.

High Stakes and Consequences

AYP requires states to disaggregate test results not only by communities and schools but also by specific sub-groups of students. Such disaggregation gives educators and parents a truer idea of what is really going on in their school—after all, a school that appears to be making progress when one looks at its average score may also show, upon closer examination, that certain groups of students have made little or no gains. Disaggregation of results is a necessary tool of accountability to ensure that schools do not hide failing groups of students behind the law of averages.

So, what happens if students in a school or in a particular subgroup do not meet or exceed the state's defined standard for AYP? The answer is simple: that school would not make adequate yearly progress. The NCLB is very clear about the consequences that such schools will face, and the stakes are high.

If schools and districts do not show gain over a defined period of time, action will be taken on behalf of the students in those schools, including mandatory public school choice and the provision of individual supplemental services purchased with Title I funds. In addition, chronically failing schools face the very real possibility of having their schools completely restructured, while states that fail to meet their obligations under their state plan risk the loss of federal administrative dollars.

These potential penalties resonate loudly with schools, districts and states, and they send a clear message to parents that the law is serious about providing them opportunities to remove their children from consistently-failing schools. In a welcome break with past policy, school failure will result in meaningful consequences, and will empower parents to immediately remove their children from failing schools, instead of consigning them to continued failure. Further, in a contrast to the overall mood of NCLB, the timelines and sanctions imposed for school failure are specific and non-negotiable, as they should be. There is simply no more room for flexibility when it comes to consequences for failing schools.

If a school fails to make adequate yearly progress for two consecutive years, it will be identified by the district and state as *needing improvement*. This identification will mean

that federal funds will be available to states and districts to provide schools with technical assistance to improve academic achievement—but financial assistance alone is no longer seen as a sufficient tonic for the ailment. The school is also subject to stricter and more rigorous sanctions to ensure that change occurs as quickly as possible. After two years of failure, the district is required to create a plan to turn the school around and to offer public school choice to all students in the failing school by the beginning of the next school year. Further, the district must pay the costs of transporting any students who opt to attend a different public school, including public charter schools.

If a school fails to make adequate yearly progress for three consecutive years, it must not only continue to offer public school choice for all students, but must also allow disadvantaged students in the failing school to use Title I funds to pay for supplemental services from a provider of choice. Schools will be required to set aside 20 percent of their total Title I allocation to pay for both the supplemental services and transportation to these services. Not less than 5 percent must be used for each.

After four years of failure to make adequate yearly progress, districts are required by law to implement *corrective action* in their school. This means that, in addition to continuing the provision of public school choice and supplemental services, districts must intervene more forcefully. This could mean removing school staff, changing school leadership, or altering curriculum and programs. Finally, to stem the tide of continuous failure, any schools that fail to make adequate progress for five consecutive years would be completely restructured. This might mean a state takeover, alternative governance, private management, new staff, or becoming a charter school. In essence, they will begin anew.

Schools will be released from the "corrective action" category only after making adequate yearly progress for two consecutive years.

With the enactment of NCLB, these consequences go into immediate effect for schools that have already been identified as in need of improvement under the IASA. These schools—some 6,700 of them[8] —are considered to be in their first year of school improvement (in 2001-2002) and must offer public school choice in the coming school year (2002-2003). Likewise, the 3,000 schools that are already in their second year of school improvement under the previous law must provide individual student services to supplement the regular school day in addition to public school choice for all low-income students in the coming year. This means students who have been in schools identified as failing for two or three years will receive immediate help through NCLB. The clock does not start over for these students, and failing schools do not receive an amnesty period simply because the law changed.

Just as schools are held to showing results under the AYP process, so too are school districts and, ultimately, the state. The state, usually through its state department of

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[8] House Committee on Education and the Workforce, *Press Release: H.R. 1 Education Reforms Would Mean Immediate New Options for Students In Thousands of Failing Schools—Beginning in 2002*, December 13, 2001.

education, is responsible for determining whether an LEA has made progress, and identifying whether it needs improvement or requires corrective action. Likewise, progress by the state toward meeting its AYP objectives is reviewed by the U.S. Department of Education, using a peer review process. States that do not have in place standards and assessments, a system for measuring and monitoring AYP, or a mechanism for publicly reporting results risk having their funding for state administration withheld.[9]

Additionally, any State education departments that have been granted "flexibility authority" will lose that authority if the state fails to make adequate yearly progress for two consecutive years. Similarly, local education agencies that are participating in local flexibility demonstration projects would also lose that opportunity if their schools fail to make adequate yearly progress for two consecutive years.

While there are consequences for schools not meeting or exceeding the goals of adequate yearly progress, there are also rewards and recognition for schools that do make expected progress. Schools that significantly close the achievement gap or that exceed the AYP requirements can receive the State Academic Achievement Awards, and schools that make the greatest gains will be eligible for the Distinguished School Award. Along with the schoolwide recognition, teachers could receive financial awards in schools that receive the Academic Achievement Awards.

The Importance of Rolling Averages

In defining what is meant by AYP, we mentioned that states may use a three-year rolling average of their assessments. This is relevant because there has been some concern expressed about states placing too much emphasis on the most recent test scores and about how single-year scores exaggerate sometimes-random fluctuations that occur from one year to the next.[10] Therefore, the process outlined in NCLB allows states some flexibility regarding the establishment of a uniform averaging procedure by using data from one or two school years immediately preceding the current year, instead of just the scores from a single year.

For example, states beginning to define their AYP expectations will use 2001-2002 school year test scores. However, NCLB allows the states to average in scores from 2000-2001, as well as data from 1999-2000—the two preceding years. During 2002-2003 school year, the data from 2000-2001 and 2001-2002 would be used in computing for the school's average, while the 1999-2000 data would be dropped, thus establishing a three-year rolling average. Each year, then, the rolling average will incorporate the current year and the two previous years.[11]

Why is this important? As the system moves forward and multiple years of data become available, the reliability will be increased. Certainly, schools that do not have scores from previous years will be at a disadvantage, and results from new schools will be more

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[9] *No Child Left Behind Act*, P.L. 107-110, Section 1111 (g)(2), 107th Congress, 1st Session, 2001.
[10] Kane, 10.
[11] *No Child Left Behind Act*, P.L. 107-110, Section 1111 (J), 107th Congress, 1st Session, 2001.

volatile and less reliable until they can establish at least three years of data and begin the rolling average.

It is also important to note that, after establishing a baseline of student achievement using the 2001-2002 data, states are given the opportunity to confirm the results during the following year. The confirmation of this year of data means that schools, districts, or states that have not been currently identified for school improvement would not automatically be considered as in need of improvement based on a single year's worth of data.

An Exercise in Humility

Today, there is no obvious template or ideal model that states can turn to in the development of their AYP process. Experience is too brief, research too new, and approaches too varied to yet have yielded a definitive prototype—but the experimental nature of the process is part of what makes it both intriguing and worthwhile. We need education leaders who are not afraid to experiment, who are open minded about varying approaches to assessment, who are research oriented, and who have a sincere desire to learn what really works before rushing to declare that an ideal model has been found. What is really called for is humility.

This will be an exercise in humility for all parties involved in the process. Education leaders in the nation who have created, enacted, or lived with a particular approach to assessing student gain over time must share their own experience and be willing to accept approaches they may not have considered or even discarded.

There remains at the core of NCLB, however, a set of non-negotiable principles and requirements based on the experience and wisdom of these same leaders. The law outlines for states a highly desirable accountability infrastructure that is stringent in and of itself—and presumably sufficient to produce desired results, when applied in tandem with improvements in instruction, curriculum, and high expectations.

We will do well to recall the work of many states and leaders in the preceding decade that has brought us what knowledge we currently claim in this arena. That knowledge is yet young and still evolving. We should focus on meeting the major goals and let the science of accountability evolve.

This bill enacts a new vision of American education. Its goals are idealistic, and they are achievable if we are to believe the work going on in hundreds of school across the nation today. "No Child Left Behind" now means just that. Whether states can attain that goal is yet to be seen—but the gauntlet has been thrown down, and we should pick it up. America's children are waiting for us to meet the challenge.

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